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**8. PUBLIC LAW 101-337**

**(PARK SYSTEM RESOURCE PROTECTION)**

[As amended through December 31, 1996, P.L. 104-333]

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## **8. PUBLIC LAW 101-337**

### **(PARK SYSTEM RESOURCE PROTECTION)**

(Act of July 27, 1990; 104 Stat. 379; 16 U.S.C. 19jj through 19jj-4)

AN ACT To improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. [16 U.S.C. 19jj] DEFINITIONS.**

As used in this Act the term:

(a) "Attorney General" means the Attorney General of the United States.

(b) "Damages" includes the following:

(1) Compensation for—

(A)(i) the cost of replacing, restoring, or acquiring the equivalent of a park system resource; and

(ii) the value of any significant loss of use of a park system resource pending its restoration or replacement or the acquisition of an equivalent resource; or

(B) the value of the park system resource in the event the resource cannot be replaced or restored.

(2) The cost of damage assessments under section 3(b).

(c) "Response costs" means the costs of actions taken by the Secretary of the Interior to prevent or minimize destruction or loss of or injury to park system resources; or to abate or minimize the imminent risk of such destruction, loss, or injury; or to monitor ongoing effects of incidents causing such destruction, loss, or injury.

(d) "Park system resource" means any living or non-living resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.

(e) "Regimen" means a water column and submerged lands, up to the high-tide or high-water line.

(f) "Secretary" means the Secretary of the Interior.

(g) "Marine or aquatic park system resource" means any living or non-living part of a marine or aquatic regimen within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.

#### **SEC. 2. [16 U.S.C. 19jj-1] LIABILITY.**

(a) IN GENERAL.—Subject to subsection (c), any person who destroys, causes the loss of, or injures any park system resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

(b) **LIABILITY IN REM.**—Any instrumentality, including but not limited to a vessel, vehicle, aircraft, or other equipment that destroys, causes the loss of, or injures any park system resource<sup>1</sup> any marine or aquatic park resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury to the same extent as a person is liable under subsection (a).

(c) **DEFENSES.**—A person is not liable under this section if such person can establish that—

(1) the destruction, loss of, or injury to the park system resource was caused solely by an act of God or an act of war;

(2) such person acted with due care, and the destruction, loss of, or injury to the park system resource was caused solely by an act or omission of a third party, other than an employee or agent of such person; or

(3) the destruction, loss, or injury to the park system resource was caused by an activity authorized by Federal or State law.

(d) **SCOPE.**—The provisions of this section shall be in addition to any other liability which may arise under Federal or State law.

#### **SEC. 3. [16 U.S.C. 191j-2] ACTIONS.**

(a) **CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.**—The Attorney General, upon request of the Secretary after a finding by the Secretary—

(1) of damage to a park system resource; or

(2) that absent the undertaking of response costs, damage to a park system resource would have occurred;

may commence a civil action in the United States district court for the appropriate district against any person who may be liable under section 2 for response costs and damages. The Secretary shall submit a request for such an action to the Attorney General whenever a person may be liable or an instrumentality may be liable in rem for such costs and damages as provided in section 2.

(b) **RESPONSE ACTIONS AND ASSESSMENT OF DAMAGES.**—(1) The Secretary shall undertake all necessary actions to prevent or minimize the destruction, loss of, or injury to park system resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) The Secretary shall assess and monitor damages to park system resources.

#### **SEC. 4. [16 U.S.C. 191j-3] USE OF RECOVERED AMOUNTS.**

Response costs and damages recovered by the Secretary under the provisions of this Act or amounts recovered by the Federal Government under any Federal, State, or local law or regulation or otherwise as a result of damage to any living or nonliving resource located within a unit of the National Park System, except for damage to resources owned by a non-Federal entity, shall be available to the Secretary and without further congressional action may be used only as follows:

(a) **RESPONSE COSTS AND DAMAGE ASSESSMENTS.**—To reimburse response costs and damage assessments by the Secretary or other Federal agencies as the Secretary deems appropriate.

<sup>1</sup> In section 2(b), the word “or” should appear after “park system resource”.

(b) RESTORATION AND REPLACEMENT.—To restore, replace, or acquire the equivalent of resources which were the subject of the action and to monitor and study such resources: *Provided*, That no such funds may be used to acquire any lands or waters or interests therein or rights thereto unless such acquisition is specifically approved in advance in appropriations Acts and any such acquisition shall be subject to any limitations contained in the organic legislation for such park unit.

(c) EXCESS FUNDS.—Any amounts remaining after expenditures pursuant to subsections (a) and (b) shall be deposited into the General Fund of the United States Treasury.

(d) REPORT TO CONGRESS.—The Secretary shall report annually to the Committee on Appropriations and the Committee on Energy and Natural Resources of the United States Senate and the Committee on Appropriations and the Committee on Natural Resources of the United States House of Representatives on funds expended pursuant to this Act. The report shall contain a detailed analysis and accounting of all funds recovered and expended, including, but not limited to, donations received pursuant to section 5, projects undertaken, and monies returned to the Treasury.

**SEC. 5. [16 U.S.C. 19jj-4] DONATIONS.**

The Secretary may accept donations of money or services for expenditure or employment to meet expected, immediate, or ongoing response costs. Such donations may be expended or employed at any time after their acceptance, without further congressional action.

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